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the owner takes advantage of his undoubted right to refuse the injured party access for purposes of self-help, he should be under a reciprocal affirmative duty to remove the cause of damage himself.

WATERS AND WATER COURSES — PUBLIC RIGHTS — RIGHT TO TAKE FISH AND GAME ON A NAVIGABLE NON-TIDAL STREAM.— The plaintiff, owner of the bed of a navigable non-tidal stream, seeks to enjoin a member of the public from hunting from a boat on that part of the stream which is over the plaintiff's land. *Held*, that the injunction will not issue. *Diana Shooting Club v. Husting*, 145 N. W. 816 (Wis.).

For a discussion of the right to fish and hunt in non-tidal waters see this issue of the REVIEW, p. 750.

WITNESSES — COMPELLING TESTIMONY — SUBPENA DUCES TECUM TO COMPEL PARTNER TO PRODUCE PARTNERSHIP PAPERS FROM FOREIGN JURISDICTION. — A *subpœna duces tecum* had issued against the defendant, a partner in a firm doing business in New York and Paris, to appear as a witness before the grand jury and bring with him certain checks then retained in the Paris office. Although the checks would have been forwarded on request, the defendant failed to make any reasonable efforts to produce them. *Held*, that the defendant is in contempt. *In re Munroe*, 210 Fed. 326 (Dist. Ct., Mass.).

To enforce a *subpœna duces tecum* it is essential that the document be within the witness' control. *Amey v. Long*, 9 East 473. But if he is the legal possessor, he need not have the actual custody. *Steed v. Cruise*, 70 Ga. 168. Thus the precise locality of the document is unimportant and it is of no consequence that it happens to be in a foreign jurisdiction. *In re Consolidated etc. Co.*, 80 Vt. 55, 66 Atl. 790; *Holly Mfg. Co. v. Venner*, 86 Hun (N. Y.) 42. So if the defendant had been the sole owner of the checks, he was clearly in contempt. Nor should the fact that the checks were partnership property necessarily alter the case. On the aggregate theory of partnership each partner has complete control of the firm property subject to the rights of the others. PARSONS ON PARTNERSHIP, 4 ed., § 255. Or if the "firm" is considered a distinct entity, each partner enjoys the same control, not as joint-owner but as a general agent. PARSONS ON PARTNERSHIP, 4 ed., § 46. This latter conception is similar to that of a corporation. See *Walker v. Wait*, 50 Vt. 668, 676. And a *subpœna duces tecum* will issue against an officer who has control of a document belonging to the corporation. *Nelson v. United States*, 201 U. S. 92, 115. See also *Lorenz v. Lehigh Navigation Co.*, 5 Leg. Gaz. (Pa.) 174. Of course if the other partners refuse to relinquish the papers, the subpoena cannot be enforced. See *Attorney General v. Wilson*, 9 Sim. 526, 529. But where, as in the principal case, the subpoenaed partner could have produced the documents by an honest effort, yet unreasonably refused, he should be in contempt. *United States v. Collins*, 145 Fed. 709. To require service on every partner would often lead to a failure of justice and should be unnecessary.

BOOK REVIEWS.

COMMENTARIES ON THE LAW OF EVIDENCE IN CIVIL CASES. By Burr W. Jones, Rewritten, Enlarged and Brought with Authorities up to the Present Date by L. Horwitz. Volumes 1 to 5. San Francisco: Bancroft-Whitney Company. 1913, 1914. pp. xxvi, 1031; x, 1071; x, 1036; ix, 976; vi, 1157.

If the editor of the 16th edition of Greenleaf (already Wigmore on Evidence more truly than Taylor on Evidence ever earned its name) had felt warranted